

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

BIGLER JOBE STOUFFER,)	
)	
Plaintiff,)	Case No. 21-CV-1000-F
)	
Vs.)	
)	
SCOTT CROW, et al.)	
)	
Defendants.)	

**CAPITAL CASE
PENDING EXECUTION DATE:
DECEMBER 9, 2021**

**PLAINTIFF BIGLER JOBE STOUFFER’S EMERGENCY
MOTION FOR INJUNCTIVE RELIEF**

Comes Now Plaintiff, Bigler Jobe Stouffer (“Stouffer”), and moves the Court for immediate injunctive relief, and in support of this request states as follows:

1. Mr. Stouffer had previously requested that one of his lawyers, Gregory Laird, be a witness to his execution, presently set to commence tomorrow morning at 10:00 am CST.
2. Earlier this afternoon, and while he was en route to Oklahoma City, and then to visit Mr. Stouffer this evening, Mr. Laird was informed by officials from the Oklahoma Department of Corrections that he would not be allowed to witness the execution.
3. Mr. Laird immediately reached out to counsel for the State, via email at 2:49 pm this afternoon, bringing to their attention this issue and requesting assistance in getting it resolved.
4. A response was received from Counsel for the State at 4:11 this afternoon as follows:

On Dec 8, 2021, at 4:11 PM, Bryan Cleveland
<bryan.cleveland@oag.ok.gov> wrote:

Mr. Laird,

This is in response to your 2:49 pm e-mail and your e-mail below. As you can surely understand, we needed to get in touch with officials at DOC in order to respond.

We learned that you attended a meeting between Reverend Potts and DOC with staff who were tasked with addressing chaplains in the execution chamber, not witnesses in the viewing room. Our understanding is that DOC personnel did say they would follow up with OSP officials to accommodate any request Stouffer was making for witnesses.

On inquiry to OSP, the DOC officials at the meeting learned that Stouffer has not requested your presence at the execution. You have no right to attend an execution, protocol or otherwise, if your client does not want you there.

If you believe Mr. Stouffer has made such a request, please provide us with whatever information you have regarding such a request.

Best,

Bryan Cleveland
Assistant Solicitor General

5. Mr. Laird responded to this email at 4:13 pm this afternoon, as follows:

From: gregory Laird <greglairdlaw@gmail.com>
Sent: Wednesday, December 8, 2021 4:24 PM
To: Bryan Cleveland <bryan.cleveland@oag.ok.gov>
Cc: Lori Gray <Lori_Gray@okwd.uscourts.gov>; Andy Ferguson <andy.ferguson@oag.ok.gov>; dave1tank@outlook.com; Mithun Mansinghani <mithun.mansinghani@oag.ok.gov>; sjr@sjraf.com

Subject: Re: Stouffer execution

Mr. Cheveland,

At the meeting you speak of, I informed the DOC officials present that Mr. Stouffer wanted me to witness the execution. I explained to them that it was his belief the forms were for non-attorney witnesses and that, by right, his attorney could attend.

They said he still needed to fill out a form. They advised me that they would get the form to him and I would be allowed to witness the execution. They took my car and license tag information so I would be allowed past any checkpoints. They further informed me that I would receive an email today detailing instructions for my attendance.

I waited until this afternoon for said email and when one did not come I emailed Nanci Battles and Samantha McKinney asking for the instructions. Ms. Battles informed me that “the director” had final say in this decision and he had decided not to allow me to attend.

I would request that the director reconsider his position or I will seek relief from the court. To be clear, as an officer of the court, I am telling you that Mr. Stouffer has told me he wants me in attendance, expects me to be there and no one ever informed him he had to put me on the list in order for me to be able to attend.

Please advise if the director is going to change his mind and let me in tomorrow or if I need to seek relief from the court.

Regards,

6. In addition, at 4:51 pm this afternoon, another e-mail was sent to Mr. Cleveland, making additional efforts to resolve this concerns raised in this Motion without intervention from the Court, as follows:

From: David Tank

Sent: Wednesday, December 8, 2021 4:51 PM

To: Bryan Cleveland <bryan.cleveland@oag.ok.gov>; Andy Ferguson <andy.ferguson@oag.ok.gov>; greglairdlaw@gmail.com; Mithun Mansinghani <mithun.mansinghani@oag.ok.gov>; sjr@sjraf.com

Subject: RE: Stouffer execution

Here is the attachment referred to in my email.

We await your response.

Dave Tank

dave1tank@outlook.com

Cell: 515-480-7098

From: David Tank
Sent: Wednesday, December 8, 2021 4:48 PM
To: Bryan Cleveland <bryan.cleveland@oag.ok.gov>; Andy Ferguson <andy.ferguson@oag.ok.gov>; greglairdlaw@gmail.com; Mithun Mansinghani <mithun.mansinghani@oag.ok.gov>; sjr@sjraf.com
Subject: RE: Stouffer execution

Mr. Cleveland:

I have not included Lori Gray on this email.

Mr. Laird will be meeting with Mr. Stouffer this evening. Can you confirm that if he obtains a signed copy of the attached identifying Mr. Laird as a witness he requests be present tomorrow, that will suffice and allow him to attend? Obviously, that would save the Court the trouble of having to deal with this.

Dave Tank
dave1tank@outlook.com
Cell: 515-480-7098

7. At 5:32 this afternoon, counsel for the State responded as follows:

From: Bryan Cleveland <bryan.cleveland@oag.ok.gov>
Sent: Wednesday, December 8, 2021 5:32 PM
To: David Tank <dave1tank@outlook.com>; Andy Ferguson <andy.ferguson@oag.ok.gov>; greglairdlaw@gmail.com; Mithun Mansinghani <mithun.mansinghani@oag.ok.gov>; sjr@sjraf.com
Subject: RE: Stouffer execution

Mr. Tank,

It is simply too late. This form was first given to Mr. Stouffer 35 days ago, as you well know from your own review of the facts and the protocol. At this point, Mr. Laird has known for 30 days that he is not on the witness form, as it was finalized by Mr. Stouffer on November 8. Mr. Laird's failure to address the issue with Mr. Stouffer at any point in the last four weeks is his fault, and his intentional delay in waiting to address the issue is not a reason to modify the protocol less than 18 hours before an execution.

Bryan Cleveland
Assistant Solicitor General

8. Given the exigent circumstances, Stouffer requested that a telephonic hearing be convened immediately, and without the need for a formal motion, but was advised by Lori Gray, Judge Friot's Courtroom Deputy / Case Manager that: "Judge Friot acts only on motions in matters such as this. If a motion is filed that requires the court's attention, Judge Friot will attend to that matter without delay".

9. Under the circumstances, Stouffer request that the that the Court invoke its inherent authority to provide relief, and to do so based on well-established precedent, and to waive any requirement for formal briefing or citation of additional authority. In particular, Stouffer believes that his constitutional right to have counsel present during his execution is well-established and is within the Court's power to ensure that right is not denied him.

10. Stouffer requests the Court either immediately enter an Order requiring the State of Oklahoma to allow Mr. Laird to be a witness to his execution or, alternatively, stay the execution until this matter can be dealt with.

11. Under the circumstances, Stouffer requests the Courts immediate attention to this issue, and counsel for Stouffer will be available to address any questions or concerns relating to it if the Court feels that appropriate.

Wherefore, Bigler Jobe Stouffer requests an immediate Order, affording him the relief requested, and for any and all other relief the Court deems just, equitable and appropriate under the circumstances.

Respectfully submitted this 8th day of December, 2021, by

s/ Gregory W. Laird

Gregory W. Laird, OBA # 18093

Law Office of Gregory W. Laird

P.O. Box 52043

Tulsa, OK 74152

greglairdlaw@gmail.com

(405) 264-3553

COUNSEL FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of December, 2021:

I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of Electronic Filing to all counsel of record who are registered participants in the Electronic Case Filing System.

s/ David A Tank